

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JANINE DONALDSON and
KIMBERLY MCKENZIE,

Plaintiffs,

v.

RONALD LENSBOUER and
SOMERSET COUNTY,

Defendants.

Civil Action No. 3:15-cv-63-KRG

JUDGE KIM R. GIBSON

JURY TRIAL DEMANDED

**SOMERSET COUNTY’S MOTION IN LIMINE
TO PRECLUDE TESTIMONY REGARDING CAUSATION OF PLAINTIFFS’
ALLEGED PSYCHIATRIC INJURIES**

AND NOW, comes this defendant, SOMERSET COUNTY, by and through its undersigned counsel, JonesPassodelis, PLLC, and file the within Motion in Limine to Preclude Testimony Regarding Causation of Plaintiff’s Alleged Psychiatric Injuries, as follows:

1. Both plaintiffs contend that as a result of the actions of Mr. Lensbouer, they have suffered non-economic damages related to their general psychological distress, PTSD, anxiety, and decreased intimacy with their respective husbands. (Plaintiffs’ Pretrial Statement, p. 5).

2. Plaintiffs have identified Douglas Mahony, Ph.D. and Donald Kirwan as experts within their Pretrial Statement and have attached reports from those experts as Exhibits “A” and “B.” (Plaintiffs’ Pretrial Statement, p. 8).

3. At Exhibit “C” to their Pretrial Statement, plaintiffs attached relevant reports and findings of Ms. Donaldson’s treating mental health professionals. Similarly, at Exhibit “D”,

plaintiffs attach reports and findings of Ms. McKenzie's treating mental health professionals.

4. No expert reports concerning any of plaintiffs' alleged psychological or psychiatric injuries are attached. Moreover, no medial records concerning either plaintiff are attached.

5. Federal Rule of Evidence 26(a)(2) governs the disclosure of expert testimony. F.R.Civ.P. 26(a)(2)(B) governs witnesses who must provide a written report. Subsection (C) governs witnesses who are not required to provide a written report. In the event that a witness is determined not to be required to provide report, a party seeking to utilize said witness must provide a disclosure stating:

- i. The subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705; and
- ii. A summary of the facts and opinions to which the witness is expected to testify.

6. Plaintiffs' disclosures within the Pretrial Statement are not compliant with Federal Rule of Civil Procedure 26(a)(2)(C) as the disclosure fails to state the subject matter on which any of the alleged treaters is expected to present evidence.

7. Further, no summary of facts and opinions to which the witness or witnesses is expected to testify. This is in complete violation of Rule 26's disclosure requirements.

WHEREFORE, defendant, SOMERSET COUNTY, respectfully request that this Honorable Court enter an Order and grant its Motion in Limine to Preclude Testimony Regarding Causation of Plaintiff's Alleged Psychiatric Injuries.

Respectfully submitted,

JonesPassodelis, PLLC

By: s/Jeffery Cohen

MARIE MILIE JONES, ESQUIRE

PA I.D. #49711

Email: mjones@jonespassodelis.com

JEFFREY COHEN, ESQUIRE

PA I.D. #76512

Email: jcohen@jonespassodelis.com

Gulf Tower, Suite 3510

707 Grant Street

Pittsburgh, PA 15219

(412) 315-7272

(412) 315-7273 – FAX

Counsel for Defendant,

SOMERSET COUNTY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been forwarded to all counsel of record by:

_____ U.S. First Class Mail, Postage Paid
_____ Hand Delivery
_____ Certified Mail, Return Receipt Requested
_____ Facsimile Transmittal
_____ UPS Delivery
 X Electronic Filing/Service

at the following address:

Benjamin D. Andreozzi, Esquire
Andreozzi & Associates, PC
111 North Front Street
Harrisburg, PA 17101
(Counsel for Plaintiffs)

Kevin J. Rozich, Esquire
Michael T. Crum, Esquire
Abood Russell Pappas & Rozich
South Street Station Professional Building
709 Franklin Street, Suite 200
Johnstown, PA 15901-2823
(Counsel for Defendant, Ronald E. Lensbouer)

JONESPASSODELIS, PLLC

Date: November 7, 2017

s/Jeffery Cohen
MARIE MILIE JONES, Esquire
JEFFREY COHEN, Esquire

Counsel for Defendant,
SOMERSET COUNTY